



# *Technical Trade Report*

*Updates on Key Trade Policy Issues Affecting APHIS*

**April 1998**

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Technical Trade Report is on the Trade Support Team Home Page  
<<http://www.aphis.usda.gov/is.tst>>



## **Letter from the Acting TST Director John Greifer**

In the most recent quarter of this fiscal year, we have faced a number of new challenges with respect to managing sanitary and phytosanitary (SPS) trade issues. Recent Agency successes in terms of facilitating U.S. agricultural trade include the following:

**U.S. Apples to Chile:** Based on a series of technical information exchanges, which culminated in technical site-visits in August to several U.S. States (California, Washington and Oregon), Chile was satisfied that several apple-growing regions met the international standard for area-pest freedom for pests of concern to Chile. In October 1997, Chile officially recognized the pest-free status of these U.S. regions, resulting in the import of 72 tons of U.S. apples to Chile.

**California Fruit to Chile:** APHIS gained agreement from Chile's Ministry of Agriculture to allow the importation of kiwis, grapes, grapefruits, lemons and oranges from California. Also, Chile recognized the scientific evidence submitted by APHIS regarding the incidence of pests and diseases in California. It will accept certification from APHIS that exported fruits are free of pests such as Mediterranean fruit fly and citrus canker. These actions reflect Chile's commitment under Article 6 of the SPS agreement relating to pest-free or low prevalence areas.

**California Products to China and Japan:** In April 1997, Japan agreed to lift a prohibition on tomato imports that had been in effect for 46 years. Twenty-six varieties of fresh tomatoes from

California can now be exported to Japan, which is expected to be a significant market. China agreed to open its market to imports of grapes from California. APHIS provided scientific and technical information to prove to the satisfaction of Japan that California tomatoes are free of tobacco blue mold, and are not a threat to Japanese agriculture. In lifting its import ban, Japan reflected its WTO commitment to impose measures that are based on science and are not more trade restrictive than necessary to safeguard against disease or pest importation. China is not yet a member of the WTO, but its respect of these international SPS principles demonstrates their value in trade.

Strategically, APHIS has developed and signed several Memoranda of Cooperations (MOC) with key trading partners in an effort to strengthen our bilateral commitment to science-based regulations as called for under the WTO SPS Agreement. We have MOC's with Chile, Argentina, Russia, and several other important trade partners. We see these as important frameworks by which to enhance bilateral communication and cooperation on sanitary and phytosanitary measures, to avoid trade disruptions and to further our mutual interest in facilitating agricultural trade. These MOC's complement other tools we have to engage our trade partners on technical trade matters, including the development of international standards and other issues which are significant to expanding trade while protecting against legitimate pest or disease risks.

Last, the Trade Support Team (TST) continues to work hard with our colleagues in other APHIS units, the Foreign Agricultural Service (FAS), the

Office of the U.S. Trade Representative(USTR), as well as our overseas foreign service officers to address market access problems which are affected by scientific pest or disease issues. Our continuing challenge is to work through institutional barriers and geographic distances to ensure that the right mix of people from various agencies and offices come together in solving trade issues. We believe we are moving the right direction. Your feedback and comments are welcome. Please feel free to contact us or send in your suggestions on how USDA and/or APHIS could improve its delivery of services in the SPS trade arena.

## **Guidelines for Analyzing and Prioritizing SPS Issues**

**by John Greifer and Bob Spaide**

### ***Introduction***

Due to the proliferation of SPS issues and the limited resources for addressing these issues, it has become increasingly necessary to find a means to prioritize the issues which merit the Agency's attention. The use of taxpayer money for addressing a number of different SPS issues must be justified on the basis of efficiency, fairness, and effectiveness. This document provides some guidelines for analyzing SPS measures in order to determine which may present the greatest returns on the investment of APHIS resources.

The prioritization of engaging USDA resources to address SPS trade issues must be based on: 1) the estimated dollar value of trade threatened or being lost because of possibly unjustified foreign technical requirements and 2) the

feasibility of mounting an effective scientific case against the foreign government's SPS measure. The first criteria (i.e., dollar values) is a prominent consideration which drives USDA's Foreign Agricultural Service (FAS) sense of priorities while the second criteria describes APHIS's primary concerns (i.e., the sufficiency of scientific information to support U.S. safety claims) when it addresses technical trade issues.

From a technical or scientific standpoint, some issues are more "winnable" than others. The resource intensity (or investment) of trying to resolve a particular technical requirement varies, depending on a number of factors. This document also provides criteria and guidelines for determining the "winnability" and potential costs of pursuing SPS trade barrier issues.

### ***Retention Issues***

APHIS has identified three basic kinds of SPS barrier problems which face U.S. agricultural trade. These are retention, market expansion, and first time access issues. A retention issue implies that we were enjoying market access and then something happened to temporarily or in some cases permanently close the market. The unexpected regulatory change on the part of the foreign government may be the result of a pest or disease incident, outbreak, or report in the United States and/or changes in the importing country's law or regulations.

Emergency technical trade issues tend to be retention issues. These typically require immediate action and take place within short time frames. A perishable shipment on the border may require

quick action or the existence of a narrow harvest/shipping season may also result in added pressure for expedited action on the part of APHIS.

When we address an emergency technical barrier issue we will evaluate the scientific or technical validity of the measure taken by the foreign government. The following are factors which help us determine our chances for building an effective scientific case:

-- What is the actual level of industry interest, support, and commitment on this issue?

-- What is the nature of the pest or disease issue?

-- Is there a valid pest or disease concern, or is this a dispute over the level of protection

rather than over the actual existence of a real hazard?

-- Is the pest or disease risk significant from APHIS' standpoint?

-- Does the pest or disease exist in the importing country?

-- What would we do if the situation were reversed? Does the foreign action mimic a quarantine measure APHIS would impose if we were dealing with the same risk?

-- Do relevant international or regional standards exist to help resolve the issue?

-- What is the record of bilateral technical discussions on the issue? Has this issue or technical trade problem been discussed in other fora? If yes,

what has been the outcome of those efforts?

-- Would we win a favorable panel decision if we took this case to dispute?

These issues will affect our ability to resolve an SPS barrier problem. Our decisions about which SPS barrier problems to resolve first will depend on how some of the above questions are answered.

Efforts and success to resolve these issues will also rely on joint Federal-State-Industry cooperation and pooling of resources. The Federal Government cannot be expected to finance the entire costs associated with data gathering, analysis, and foreign visits. The willingness and ability of State and industry groups to help defray these costs is an important factor in determining the extent to which APHIS will deploy its own resources in engaging with a foreign government on an SPS issue.

### ***Market Expansion and First Time Access***

Market expansion and first time access issues, on the other hand, may imply the need to generate a lot of information, perhaps for the first time, on a new product in order to assure our trade partner of its safety. This may include research and conducting bilateral technical meetings, etc.

Some factors which will determine the regulatory costs of trying to expand current market share or establish first time access include:

-- How much technical analysis and research is required to generate conclusions regarding the merit of the other country's SPS requirements (low, medium, high)? What are the research costs and who will finance them?

-- Has the foreign government shown a readiness in the past to engage in meaningful technical negotiations? Or, are we dealing with a culture in which change is very slow?

-- Does access for that commodity currently exist in other markets? Are the pest or disease concerns similar?

-- Have we negotiated protocols with other governments to overcome these same risk concerns? To what extent can we use the same research and protocols to support moving the commodity into new markets?

APHIS will be wary of pursuing any effort unless there is a demonstrated and significant level of U.S. industry interest in shipping a particular commodity to a particular market. Industry will be expected to cooperate with APHIS in generating the necessary surveillance and monitoring data and possibly fulfilling some requirements that would be reasonably expected in order to meet the importing country's desired level of protection. The absence of such interest will discourage APHIS from investing its own resources in market expansion or new market access efforts.

### ***Conclusions***

USDA's decision to engage on SPS issues must be based on the existence of sufficient scientific data to demonstrate the safety of U.S. food and agricultural

products. The principle of national sovereignty in setting the "appropriate level of protection," (affirmed and protected in the WTO SPS Agreement) will continue to make it possible for countries to maintain levels of protection against pest or disease risks which we may believe are negligible.

Some technical trade cases are, from a regulatory standpoint, more "winnable" than others. APHIS will try to allocate its resources to those which are more "winnable" from the Agency standpoint. A high degree of industry support will continue to be necessary in terms of providing the surveillance and monitoring data to support the statements we make about the safety of a particular commodity.

Finally, our success in resolving technical trade issues will be based, to some extent, on our ability to cultivate and maintain relationships with our trade competitors. Trust and credibility in the foreign regulatory officials or agencies are essential for reaching agreements on regulatory protocols which will allow the movement of commodities which may present a pest or disease risk. APHIS' foreign service officers stationed overseas provide an important network for developing and strengthening our relationships with regulatory officials in other countries and thereby facilitate trade on the basis of credible scientific information and communication.

### **WTO Decides Case Against EU Hormone Ban**

The first WTO case brought under the new SPS Agreement has been decided in favor of the United States and Canada. The two parties complained that the

EU's ban on imports of beef from animals treated with growth promoting hormones violated the SPS Agreement. The case is important because it is the first legal interpretation of the SPS Agreement. The removal of the EU ban would allow the resumption of U.S. exports of beef and beef offals.

With the institution of the EU's ban, U.S. beef exports to the EU dropped dramatically, from an average of \$100 million before the ban. The U.S. has always protested the EU's ban as a trade barrier, rather than a legitimate measure designed to ensure food safety. Extensive studies have demonstrated that eating meat from animals treated with growth promoting hormones poses no health risk to humans.

The case before the Dispute Settlement Panel concerned six specific hormones used for growth promotion purposes in the U.S. and other countries, but banned in the EU. In their rulings, the Dispute Settlement Panel and the Appellate Body examined a number of important aspects of the SPS Agreement. These included the obligation to base measures on a risk assessment, harmonization with international standards, and what constitutes a "disguised restriction on international trade". The findings of the Appellate Body are explored below.

Article 3.1: Requires Members to "base their sanitary and phytosanitary measures on international standards". The Appellate Body's found that the Panel erred in interpreting Article 3.1 to mean that Member's measures should conform to international standards. International standards are not vested by the SPS Agreement with obligatory force and effect.

Article 3.3: Allows Members to enact and maintain measures which result in a higher level of protection than international standards, if there is a scientific justification. The Appellate Body agreed with the Panel's finding that the EU had not met its obligation under Article 3.3. In setting a higher level of protection, the EU needed to demonstrate a scientific justification for its measure. Furthermore, to be consistent with the requirements of Article 3.3, a measure must comply with the requirements contained in Article 5, including the requirement to base the measure on a risk assessment.

Article 5.1: Requires Members to base their measures on a risk assessment. This requirement is closely related to the obligation in Article 2.2 that measures must be based on scientific principles and supported by scientific evidence. The Appellate Body upheld the Panel's finding that the EU's measures are inconsistent with the requirements of Article 5.1. A large body scientific studies relative to the substances at issue was available, but the EU's measure did not reflect the results of these studies. The Appellate body stated that "the results of the risk assessment must sufficiently warrant the SPS measures at stake."

Article 5.5: Relates to Member's obligations to "avoid arbitrary or unjustifiable distinctions in the levels [of protection] it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade." The Appellate Body concluded that while the EU's measure did show an unjustifiable distinction in the level of protection relative to a similar measure

(permitting the use of carbadox in pig feed), this did not result in either discrimination or a disguised trade restriction.

### ***Implications of the Rulings***

The most significant aspect of the rulings is the confirmation of the major role played by risk assessment in deciding SPS measures. The risk assessment is not just a procedural requirement - the SPS Agreement requires a rational relationship between the measure and the risk assessment. "...Article 5.1, ...in conjunction with and as informed by Article 2.2 of the SPS Agreement, requires that the results of the risk assessment must sufficiently warrant -- that is to say, reasonably support -- the SPS measure at stake."

The Appellate Body's findings with regard to Article 5.5 are disappointing, as the U.S. considered the EU ban essentially a protectionist measure. The Appellate Body appears to be interpreting this provision of the Agreement quite narrowly, and its ruling does not provide much guidance for WTO contracting parties. The parties are currently engaged in an effort to clarify the concept of "consistency in the application of the concept of the appropriate level of protection" in Article 5.5. This effort will be an important part of the upcoming triennial review of the SPS Agreement.

At the March 13, 1998 meeting of the WTO Dispute Settlement Body, the EU stated that it intends to bring its measures into conformity with its obligations under the SPS Agreement. It has stated that it will carry out a risk assessment to focus specifically on the

potential health risks associated with hormone residues in meat and meat products. It intends to maintain the ban, however, during the time it is conducting this risk assessment.

Both the Panel and the Appellate Body held that the EU had already conducted a risk assessment for 5 of the 6 hormones at issue (no risk assessment was conducted for MGA). These risk assessments, including the assessments of the EU's Standing Veterinary Committee, contradicted the EU's contention that meat and meat products from animals treated with hormones pose a risk to human health. The EU failed to meet the requirements of Article 5.1 in that its measure, the hormone ban, does not take into account the results of these studies.

The EU most recently examined the scientific evidence regarding meat from animals treated with hormones in 1995, at the EC Scientific Conference on Growth Promotion in Meat Production. This Conference produced no new studies indicating a human health risk. The Conference Proceedings found that "At present, there is no evidence for possible health risks to the consumer due to the use of natural sex hormones for growth promotion". It is unlikely that the EU's new risk assessment will produce a different result.

What would happen if the EU decides not to implement the Panel/Appellate Body report? Under the conditions of dispute settlement in the WTO, the parties involved can negotiate some compensation. In a case decided against the EU's support program for oilseeds producers in 1992, the EU compensated the injured parties by opening import



quotas for other agricultural products, rather than modify its domestic program. In the event the parties cannot agree on compensation after a reasonable period of time, the Dispute Settlement Body can authorize retaliation, pending full implementation.

The EU has a maximum of 15 months to implement the results of the Dispute Settlement process. The EU may well require this full time period for their risk assessment, and the complicated legislative process changing the ban might entail. If this is the case, the United States, Canada, and other interested parties will have to wait until mid 1999 to learn exactly how the EU will fulfill its obligations.

### ***Time-line of the Dispute***

The EU first instituted restrictions on the use of growth promoting hormones in beef production in 1981. These restrictions were progressively tightened, and legislation adopted in 1988 prohibited imports of meat from treated animals.

The U.S. protested the ban in bilateral discussions with the EU, and requested the formation of a technical experts group (to determine whether the ban violated GATT rules on technical barriers to trade) in March 1987. The EU blocked the formation of this group.

On April 25, 1996, the United States requested the establishment of a panel in this dispute under the new SPS Agreement, and the new WTO rules on dispute settlement. Canada followed suit on September 16, 1996 and the two cases were joined. A panel was

established at the DSB meeting on May 20 1996.

After a Dispute Settlement Panel found against the EU in August 1997, the EU appealed the decision. The Appellate Body reviewing the decision issued its report in January 1998, upholding the finding that the hormone ban violated the EU's SPS obligations. The reports of the Panel and the Appellate Body that reviewed the appeal were adopted by the Dispute Settlement Body (DSB) on February 13, 1998. On March 13, the EU stated its intention to comply with the requirements of the SPS Agreement.

### **An APHIS Perspective on the Asia Crisis**

The following discussion is intended to provide an overview, from an APHIS perspective, of the implications of the financial and resulting economic crises in Asia. As is well known by now, a 15-percent depreciation of Thailand's baht on July 2, 1997 set the stage for subsequent currency drops and financial troubles throughout Southeast Asia, as well as Korea and Japan. While this was the point at which the trouble hit the news, bad lending and other questionable practices in several of the countries in the preceding years actually laid the groundwork for the crisis.

APHIS is represented in Asia and the Pacific by four area offices located in Tokyo, Japan, Beijing, China, Seoul, Korea, and Canberra, Australia. Staffing for these offices consists of four APHIS Foreign Service attaches and six foreign service nationals, two each in Beijing and Tokyo, and one each in Seoul and Canberra. The APHIS Tokyo office, located in the U.S. Embassy, is

responsible for the Japanese and Taiwanese markets, the largest and 4th largest markets for U.S. agricultural products, respectively. Located in the Beijing World Trade Center, approximately a mile from the U.S. Embassy in Beijing, the APHIS Beijing office is not only responsible for covering the Chinese market, but it additionally handles issues with regard to Mongolia, Vietnam and other Southeast Asian nations such as Cambodia. The office of the APHIS Attache in Seoul is also located close to the embassy. The attache's responsibilities not only include Korea, but the Philippines, other Southeast Asian countries such as Pakistan and another potentially large market: India. Finally, the APHIS office in Canberra, Australia is co-located with the Foreign Agricultural Service. The attache in Canberra is responsible not only for Australia, New Zealand and Oceania, but for Asia's most potentially explosive country: Indonesia.

Recently, the APHIS regional team for Asia met to develop a strategic plan with regional goals and strategies for achieving those goals. The draft plan focuses on 5 specific goals for the region summarized as follows: 1) to facilitate trade and remove technical trade barriers, 2) establish and maintain productive working relationships with plant and animal health officials in regional economies, 3) take a leadership role in establishing constructive relationships with plant and animal health officials in regional economies, 4) provide the cultural and historical framework for negotiators and technical advisors who are involved in regional activities, and 5) manage the movement process of foreign products and

conveyances to the United States. It is against these specific objectives, and the strategies for achieving them, that the success of APHIS in Asia will be measured.

According to USDA's Economic Research Service (ERS), the Asian countries most directly affected by the crisis--Thailand, Indonesia, Malaysia, the Philippines, and South Korea--accounted for about 12 percent of U.S. agricultural exports in 1997. Taiwan and Japan, where the problems are somewhat different, accounted for nearly 25 percent of U.S. agricultural exports in 1997. ERS believes that steep currency devaluations in Southeast Asia and South Korea will result in a cut in their demand for imports, and in profits of firms operating in the region. The region's welfare will suffer from its financial downturn, experiencing higher import prices, losses in stock markets, weak domestic demand, and credit constraints.

The full effects of the crisis still cannot be accurately predicted as policy responses in each of the countries are still evolving. Additionally, the approaches that different countries take to resolve the problems that exist are varying. In an article in the February 12 Far Eastern Economic Review, a panel of economists that the magazine consulted on the issue speculated that the most rapid turnaround will come in Korea. Indonesia, with the specter of serious political turmoil looming on the horizon, appears to be in the most serious trouble. This is because of two issues, the recent financial crisis and resultant devaluation of the currencies of several of the Asian countries, as well as the lack of any apparent successor to the

aging 76-year-old President Suharto. Indeed, the cover story of The Economist of February 21, 1998 characterizes the Indonesian political situation as a "coming explosion." The Philippines has seemingly been able to miss the worst of the crisis.

Consequently, there can be some reasonable speculation as to how bad the situation will be for U.S. interests, and when the most serious effects will hit. The jury is still out as to a full assessment of how much damage will be caused to agricultural interests and that is because the effects of the crash on the real economy lag behind the currency crisis. As wages go down, and unemployment increases, some of the higher priced goods that get purchased in periods of affluence will no longer be in as high a demand. The Journal of Commerce reported on February 12, 1998, that producers and economists expect that high-value products like fruits, red meat, poultry and processed food will be the hardest hit, while corn, wheat, cotton and other bulk items will fare better. Overall, USDA estimates that the Asia situation likely means that U.S. agricultural exports will be down about 3-6 percent in fiscal 1998 and 1999 from what the level would have been without the Asia crisis.

How does APHIS fit in the current environment? Obviously, it can be expected that there may be less urgency on the part of the countries in the region to open their markets to U.S. products because they won't have the cash to pay for them. Consequently, it can be expected that negotiations might be more contentious and difficult than heretofore. Even if the region's markets are opened immediately, there still

would not be any significant demand for the products because of the financial turmoil.

On the other hand, there is significant potential for APHIS in taking advantage of the region's troubled countries' need to increase exports to gain foreign exchange. By taking the initiative to countries like Thailand or the Philippines to negotiate suitable arrangements for the exports of their commodities to the United States, APHIS can build upon the goodwill generated by these efforts to aid in the opening of their markets in the future for U.S. commodities. There is an additional benefit to be earned from such an effort as well. By negotiating arrangements for the safe export of commodities from the countries affected by the financial crisis, APHIS will also be decreasing the risk of the introduction of potentially harmful quarantine pests like oriental fruit fly, by ensuring that commodities that are exported will be exported on the basis of negotiated arrangements which take into account the appropriate mitigating measures to reduce risk. This will reduce the risk that commodities of questionable quality and security might enter the United States through the overzealous efforts of financially-hamstrung nations to export as much as possible without regard to biosafety in order to obtain foreign exchange.

How the effects of the financial and economic crises are handled strategically by the United States will have a significant impact upon USDA efforts in this region for several years into the future. If these countries can reflect upon APHIS efforts on their behalf in helping to restore their financial balance when contemplating support for a U.S.

initiative in a multilateral setting, there is a greater likelihood that the end result will be a stronger coalition in support of U.S. initiatives in multilateral fora. This means an SPS trade environment which will reflect more of the U.S. approach, which is based on increasing trade to the benefit of the consumers, than a more restrictive approach being advocated by others.

## **Future course of Sanitary and Phytosanitary issues in the Free Trade Area of the Americas**

### ***Introduction:***

The effort to unite the economies of the Western Hemisphere into a single free trade arrangement was initiated at the Summit of the Americas -- held in December of 1994 in Miami. The Heads of State of the 34 democracies in the region agreed to construct a "Free Trade Area of the America" (FTAA) and to complete negotiations for the agreement by 2005. The leaders also made a commitment to achieve substantial progress toward building the FTAA by 2000.

To ensure unencumbered agricultural trade, the FTAA negotiators recognized the need to address SPS measures in the development of the trade agreement. An SPS component of the agreement would aim to prevent the use of animal and plant health as non-tariff, protectionist barriers.

Disciplines on the application of SPS measures are important for trade in the region. In 1997, North and South America served as a \$19.9 billion market for U.S. agriculture exports, and were a source of \$34.1 billion of our imports. In

addition, this region is targeted by the Department as a growing market for U.S. agriculture products, with U.S. exports to the region growing by 13.5 percent last year. Given the importance of the region, USDA, including APHIS, USTR, EPA, and FDA have participated in all seven FTAA-SPS working group sessions.

### ***Seventh Meeting of the FTAA-SPS Working Group:***

On January 22-23, the FTAA-SPS Working Group convened to hold its seventh and final meeting in Mexico City. The chairman of the working group is Dr. Luis Aguirre, of Mexico's Federal Plant Health Division. Delegates representing most of the countries in the Western hemisphere were in attendance. The primary order of business was to finalize the working group's report to the FTAA Preparatory Committee in anticipation of the Summit of the Americas meeting on April 18-19 in Santiago, which marks the beginning of the formal FTAA negotiations.

The purpose of the report was to advise the PrepComm of how substantive SPS issues in the region could be addressed during the FTAA negotiations. While able to achieve consensus on many points, some differences remained, and the working group agreed to provide four options for how SPS issues could be dealt with during the seven year negotiating process.

Several significant outcomes were achieved during the two-day meeting:

Consensus was achieved around the concept that SPS issues must be considered as distinct, and separate from

other issues affecting trade in agricultural products.

Given the distinctiveness of SPS issues, discussions and negotiations relating to these issues must be led by technical/regulatory experts from the region.

As a corollary to the above two points, SPS issues should not be negotiated in the same context as tariffs, quotas or other regulatory topics. That is, regardless of the broader negotiating framework of the FTAA, SPS issues must not be conceded for changes in other non-SPS regulatory matters.

Four negotiating approaches were recommended to the PrepComm. These approaches had in common the desire to see that SPS issues be identified and discussed in some forum; however, the FTAA-SPS Working Group acknowledged that the final decision regarding the structure of the FTAA negotiating process would be made by the PrepComm.

What follows is a summary of the United States delegation's interventions during the working meeting for the specific topics addressed in the report.

***Possible Technical Issues for Discussion during Negotiations:***

Negotiation Objectives: The United States circulated new language to the working group members aimed at ensuring that the objective of any FTAA-SPS negotiations not seek to exceed the objectives of the World Trade Organization's SPS Agreement. The Canadian delegation supported the U.S. position not to pursue "WTO-plus"

objectives during any FTAA-SPS negotiation, and the United States was successful in redrafting the objectives section of the report by inserting language taken directly from the WTO-SPS Agreement.

Negotiating Principles: The working group agreed that the SPS principles which should be negotiated are those from the WTO-SPS Agreement. Moreover, the United States intervened to ensure that the list of principles not be exclusive, since other, yet to be identified principles may emerge as a result of the upcoming triennial review of the SPS agreement. In addition, the working group agreed that a key principle was the need to preserve the specificity and independence of SPS issues vis-a-vis other, non-SPS technical issues during the course of FTAA negotiations.

Possible Substantive issues: The U.S. delegation gained acceptance from the working group to keep open the list of possible SPS issues that should be negotiable, and was successful in adding to the list in the final report Article 13 of the WTO-SPS Agreement, "Implementation". Mercosur (Uruguay, Brazil, Paraguay, Argentina) and Canada agreed that given the pending triennial review the need to remain flexible on possible substantive SPS issues was appropriate.

Relevance of the SPS issues to other Agreements, Forums, and Negotiations: Some debate ensued with respect to where the FTAA would draw its expertise on SPS measures. The United States wanted to restrict the FTAA to recognizing only the direct regional representatives of the CODEX (human

health), International Organization of Epizootics (animal health), and International Plant Protection Convention (plant health). However, other delegations believed that a more inclusive set of regional organizations serve as technical references on SPS issues, without specifically naming any particular organizations.

### ***Possible Negotiating Approaches:***

Relationship with Other Working Group Disciplines: The working group identified clear working relationships between the SPS discipline and those of other regulatory disciplines such as the technical barriers to trade, Rules of Origin and Customs Procedures, and other Market Access issues.

### ***Options to Reach the Objectives Set Forth:***

By far the most contentious topic of debate during the meeting, the delegates finally agreed that no consensus negotiating approach could be developed. Rather, four options were proposed, with each delegation supporting different structural arrangements for how and where SPS issues should be addressed in the FTAA negotiating process.

Canada proposed that, as a means of lending flexibility to those negotiating the FTAA structure, the working group delegates should withhold their affiliation with any particular option. Canada's reasoning, supported by Caribbean countries and the United States, was that since the final decision to accept any of these four options, or some other arrangement, would be made by the trade officials from each country,

it was not necessary for the working group to demonstrate individual preferences (presumably these preferences would be known by each countries' trade ministers).

Many delegations did not support Canada's position. To settle this debate, the working group agreed that delegations who wanted to affiliate themselves with a particular option could do so, and others would not.

### ***Summary:***

The Second Summit of the Americas in Santiago marks the beginning of the formal negotiations of the Free Trade Area of the Americas. During these negotiations, disciplines for SPS measures will also be discussed. The United States has fully participated in each of the FTAA-SPS Working Group meetings to ensure that negotiations on SPS measures reflect the interests of American agriculture in the Western Hemisphere.

## **APRIL 1998**

### **Monthly Calendar of Upcoming Events/Meetings**

#### **USDA Animal and Plant Health Inspection Service**

#### **April 2-3**

Panel Hearing on WTO Varietal Case w/Japan USDA challenging Japan under WTO. Geneva

John Thaw, PPQ

#### **April 2-15**

Congressional delegation to EU To discuss agricultural trade issues. Germany, France, EU hdgtrs in Brussels

Alex Thiermann, IS

#### **April 6-10**

Tripartite Animal Health Meeting. Tripartite countries include: US, Canada, and Mexico

To discuss regional cooperation on sanitary and trade issues. Madison, Wisconsin

Joan Arnoldi, VS Bob Kahrs, VS Peter Fernandez, IS

#### **April 18-April 20**

Second Summit of Americas (FTAA)

State Visit To talk with the Chilean government officials. Santiago, Chile

President Clinton & 34 heads of state

#### **April 18- May 1**

Asia-Pacific trip

Meetings with APHIS Attaches, Embassy Officials, Foreign Govt.. Officials. Japan, China, Korea, Japan

M. Dunn, MRP A. Cielo, IS R. Iwamoto, IS C. Fedchock, IS

#### **April 23-24**

Chilean Ag officials visit Chilean Consultation

Washington, DC

APHIS, FAS, AMS, FSIS

#### **April 27-May 1**

NAPPO Working Group Strategic Planning Session.

This session will include the executives of the NAPPO Industry Advisory Group. Riverdale, MD

John Payne, PPQ Jane Berkow, OPD R. Bast-Tjeerde, CA Gustavo Frias, MX

Industry Adv Group: Paul Eggert, PPQ Henry Heuver, CA Antonio Obregon, MX

#### **April 29-30**

NAPPO Executive Committee

NAPPO includes: US, Canada, and Mexico plant health authorities Phytosanitary standard setting meeting.

Executive Committee will be meeting with the working group. Riverdale, MD

Al Elder, PPQ Jean Hollobone, CA Luis Aquirre, MX

#### **April 28 - May 2**

OIE Region of the Americas Meeting

Standard setting discussions (animal health). Winnipeg, Canada

Joan Arnoldi, VS Bob Kahrs, VS

#### **May 25-29**

OIE General Session

Standard setting activities (animal health). Paris, France

Alex Thiermann, IS Joan Arnoldi, VS

**June 2-3**

U.S.-Mexico Binational Commission

Discuss bilateral issues of mutual interest. Washington, DC

Dan Glickman Angel Cielo

**June 10-11**

WTO SPS Committee

Implementation of SPS Agreements. Geneva

Alex Thiermann, IS John Greifer, TST

**June 23-24**

WTO panel on Japan Varietal Case. Geneva

John Thaw, PPQ, Craig Fedchock, IS

**July 13-17**

FAS Global Attache Conference

Discussion of key policy issues planning and other sharing of information. Washington, DC

IS Deputy office, IS attaches, and TST

**September 7-11**

OIE Code Commission

Alex Thiermann, IS

**Sept. 15-16**

WTO SPS

Committee Implementation of SPS Agreements. Geneva

Alex Thiermann, IS John Greifer, TST

**October 5-9**

USAHA

Industry meeting including APHIS, VS, and state vets. Minneapolis, MN

Angel Cielo, IS Joan Arnoldi, VS VS staff

**October**

NAPPO

Annual Meeting

NAPPO includes: US, Canada, and Mexico plant health authorities

Phytosanitary standard setting meeting. Nova Scotia, Canada

Al Elder, PPQ John Payne, PPQ other APHIS Personnel

**Nov 11-12**

WTO SPS Committee

Implementation of SPS Agreements. Geneva

Alex Thiermann, IS John Greifer, TST

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For information regarding this report  
please contact the APHIS Trade Support  
Team at 202/720-7677.